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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,470	10/09/2003	Takahiro Tokunaga	4041J-000788	9159

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EXAMINER

FORD, JOHN K

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/682,470

Applicant(s)

TOKUNAGA ET AL.

Examiner

John K. Ford

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/16/06
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 8-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/6/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3753

Applicant's response of January 16, 2006 electing the first species of Figures 1-3G, first species of resin film-like member (of claim 2) and first species of resin film rotary door material (of claim 3), without traverse is acknowledged. Claims 1-7 and 13 have been identified as readable on the elected species.

The prior art used in the rejections that follow is all assigned to Denso Corporation (the assignee of the current application). Is there any more prior art assigned to Denso that the examiner should be aware of pursuant to Rule 56?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-7 and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JP 5-69731.

The entire document including the machine translation thereof is incorporated here by reference by way of explanation. Since the reference is assigned to Denso Corporation, the current assignee, the examiner assumes a familiarity with it that renders any further explanation of it by the examiner a superfluous exercise. Note that there are at least two main embodiments shown in Figures 1 and 8. The Figure 8 embodiment is extremely similar to applicant's (elected) Figure 1-3G species, however the claims as currently written are broad enough to be read on either embodiment of JP 5-69731.

Regarding claims 1 and 5, Figure 6(a) of JP 5-69731 shows a position where all the blow out openings are closed.

Regarding claim 4 and 13, longer arcuate section 31 in Figure 5 is 90 degrees of circular arc and the arcuate measurement of openings 11 and 13 is also 90 degrees of circular arc. Thus the rotary door can be positioned to perform the function claimed in claim 4 and the first of the two alternatively recited positions in the last clause of claim 13. Whether or not the reference teaches this positioning is not relevant in an apparatus claim for the reasons explained in MPEP 2114, incorporated here by reference. These are apparatus claims not method of use claims.

Alternatively, should such an argument ultimately fail, it would have been obvious to have made the rotary damper 3 of JP 5-69731 capable of 360 degrees of rotation to advantageously allow it to be repositioned to any desired alternative position with no more than 180 degrees of rotation relative to its initial position.


Art Unit: 3753

Regarding claim 6 and 7, in the absence of a claim to the combination of the air conditioner and the vehicle, the intended use of any particular discharge opening to condition any intended area of the vehicle is not given patentable weight for reasons discussed in MPEP 2114, incorporated here by reference.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior as applied to claim 1 above, and further in view of Sumiya et al (USP 5,676,595) or Kamiya et al (USP 5,720,657).

Each of Sumiya (col. 5, line 56, col. 6, line 13) and Kamiya (col. 6, line 4 and col. 6, line 40) teach the subject matter of claims 2 and 3 at the enumerated points in their respective disclosures. It would have been obvious to one of ordinary skill in the art to have made the rotary damper 3 of JP 5-69731 of resin as taught by either of Sumiya (col. 5, line 56, col. 6, line 13) and Kamiya (col. 6, line 4 and col. 6, line 40), to reduce costs by advantageously using a relatively inexpensive material. It would have been obvious to one of ordinary skill in the art to have used a resin film on the rotary damper 3 of JP 5-69731 as taught by either of Sumiya (col. 5, line 56, col. 6, line 13) and Kamiya (col. 6, line 4 and col. 6, line 40), to advantageously improve the sealing capability of the device at the apertures.

Any inquiry concerning this communication should be directed to John K. Ford at telephone number 571-272-4911.



John K. Ford
Primary Examiner